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VOTERS' GUIDE

TO PROPOSED AMENDMENTS
TO CONSTITUTION OF
THE STATE OF NEW HAMPSHIRE

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To Appear on a Special Ballot at Election
on November 5, 1968

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Questions one through six
Recommended by the
15th Constitutional Convention
at its sessions of May 13-June 10, and July 8, 1964
and

Questions seven through ten
Recommended by the
1967 session of the General Court

TO THE VOTERS OF NEW HAMPSHIRE:

This pamphlet was ordered, prepared and distributed, at the expense of the State, by the Convention to Revise the Constitution, which met May 13-June 10 and July 8, 1964; and for the Legislature by the President of the Senate and the Speaker of the House.

Its purpose is to help you, when you vote on November 5, 1968, to understand six proposed amendments to the New Hampshire Constitution which were approved by the Convention, and four proposed amendments to the New Hampshire Constitution which were approved by the Legislature.

PLEASE REMEMBER: In order to amend the Constitution, two-thirds of the people voting on an amendment must vote Yes. A simple majority will not amend the Constitution.

At the November 5, 1968 Election you will receive a separate, non-partisan ballot on which you will be asked to answer ten questions, which summarize these proposed amendments. You answer by voting Yes or No, as you choose.

* * *

THE SIX QUESTIONS PROPOSED BY THE CONVENTION AND THE AUTHORIZED EXPLANATION OF EACH AMENDMENT ARE AS FOLLOWS:

QUESTION NO. 1

1. Are you in favor of changing the constitution so as to allow (a) paupers and persons excused from paying taxes at their own request the right to vote, and (b) inhabitants of unincorporated places who otherwise qualify as this constitution provides, to have the same privileges of voting without requiring that they assess taxes upon themselves towards the support of government or be taxed therefor?

YES ☐

NO ☐

NOW — AT THE PRESENT TIME, qualified citizens of New Hampshire, who are paupers, or who because of indigency or old age, have had their taxes abated because of inability to pay, or who live in a very small unincorporated place and have not assessed local taxes on themselves, are disqualified to vote for governor, executive councillor, state senator, or representative. In many voting

precincts, these disqualifications are no longer enforced because they are regarded as contrary to basic justice, the Constitution of the United States, and federal law. The United States Supreme Court has recently held that no state may deny any citizen the right to vote in state elections because of non-payment of taxes. Presumably, the same reasoning would apply to impoverished or aged persons who apply for public assistance; the denial of the right to vote on this ground alone would also appear to violate the U. S. Constitution.

IF THE AMENDMENT IS ADOPTED by enough Yes votes on Question No. 1, the above restrictions on the right to vote in state elections, now obsolete, would be removed from the state constitution. No one's indigency or inability or failure to pay taxes, provided he is otherwise qualified to vote, could be used to deny him the right to vote in state elections. The amendment would bring the state constitution into conformity with the U. S. Constitution as interpreted by the Supreme Court.

QUESTION NO. 2

2. Are you in favor of removing certain obsolete words and phrases from the constitution as follows:

(a) Striking out in Article 11 of Part 1 the words "nor to any person who shall be sixty years of age or upwards on the first day of January, A.D. 1904".

YES ☐

(b) Striking out in Article 33 of Part 2 the references to an examination of records by the "president" for the first year under the constitution, and

NO ☐

(c) Striking out in Article 85 of Part 2 the words referring to oaths being taken before the president of the state?

(The two latter phrases were in the early constitution during the transition period.)

NOW — AT THE PRESENT TIME, the state constitution contains the above described obsolete phrases. The reference to persons sixty years of age on January 1, 1904, is no longer applicable, because there

are no such persons living today. The two references to the "president of the state" in Articles 33 and 85 of Part II refer to the first state election held in 1784 and are no longer useful, and also no longer applicable because the title of "president" has been changed to "governor".

IF THE AMENDMENT IS ADOPTED by enough Yes votes on Question No. 2, these obsolete and useless words will be eliminated from the state constitution, making it a more modern and up-to-date instrument, but without changing its meaning in any respect.

QUESTION NO. 3

3. Are you in favor of amending Article 6 of Part I of the Constitution so as to strike out certain specific sectarian references and further amending said Article to read as follows:

"Art. 6th. As morality and piety, rightly grounded on high principles, will give the best and greatest security to government, and will lay, in the hearts of men, the strongest obligations to due subjection; and as the knowledge of these is most likely to be propagated through a society, therefore, the several parishes, bodies corporate, or religious societies shall at all times have the right of electing their own teachers, and of contracting with them for their support or maintenance or both. But no person shall ever be compelled to pay towards the support of the schools of any sect or denomination. And every person, denomination or sect shall be equally under the protection of the law; and no subordination of any one sect, denomination or persuasion to another shall ever be established."?

YES ☐
NO ☐

NOW — AT THE PRESENT TIME, Article 6 authorizes local public taxation for the support of "Protestant" clergymen only, and promises equal protection of the law solely to "every denomination of Christians". While these provisions may have had some reason in 1783 when adopted, they are now obsolete and dead provisions, also liable to be offensive to good citizens of Catholic and Jewish faiths,

as well as to all disciples of freedom of conscience. These provisions are obviously contrary to the Fourteenth Amendment of the U. S. Constitution.

IF THE AMENDMENT IS ADOPTED, by enough Yes votes on Question No. 3, the above-described sectarian references will be stricken from the state constitution, putting all religious denominations on a basis of equality and removing the present conflict with the U. S. Constitution. It should be emphasized that this amendment does not introduce any new substantive restrictions on the relation between Church and State; the second sentence merely paraphrases a provision which has been contained in Article 83, Part II of the state constitution since 1877, but adds nothing to it. An amendment similar to this one has several times received a popular majority but failed to get the necessary 2/3 vote. The Convention believes that now is the time to give final approval to what the 20th Century has made obvious.

QUESTION NO. 4

4. Are you in favor of an amendment defining the powers and duties of the governor as commander-in-chief as follows — "The governor of this state for the time being, shall be commander-in-chief of all the military forces of the state; and shall have full power, by himself or by any chief commander, or other officer or officers, from time to time, to train, instruct, exercise and govern the militia; to call forth the militia and to put in warlike posture the inhabitants of the state; to execute the laws of the state and of the United States; to suppress insurrection and to repel invasion; and, in fine, the governor is hereby entrusted with all other powers incident to the office of commander-in-chief to be exercised agreeably to the rules and regulations of the constitution and the laws of the land"?

YES ☐

NO ☐

NOW — AT THE PRESENT TIME, Article 51, Part II of the state constitution contains obsolete and archaic references to the state navy, the governor as "admiral", "cases arising on the high seas and

such as relate to mariners' wages", and other phrases giving the governor the power to make war independently of the United States Congress. The last proviso in the present Article 51 would appear to prohibit the calling out of the national guard to serve outside the state even in time of war "without their free and voluntary consent". This proviso is contrary to federal law. Article 51 at present is obsolete, archaic, and contrary to the requirements of a modern state, as well as recent practice.

IF THE AMENDMENT IS ADOPTED, by enough Yes votes on Question No. 4, Article 51 will be rewritten as quoted above. This will make the state constitution more modern and up-to-date in its statement of the powers of the governor with respect to the state militia or national guard. The present conflicts with the U. S. Constitution and federal law will be eliminated. Present practices will be confirmed.

QUESTION NO. 5

5. Are you in favor of adding to the Bill of Rights of the New Hampshire constitution the words, YES ☐
"The right to vote shall not be denied to any NO ☐
person because of non-payment of any tax"?

NOW — AT THE PRESENT TIME, this provision is not contained in the state constitution. The 21st Amendment to the U. S. Constitution (which New Hampshire ratified) prohibits the denial of right to vote in federal elections because of non-payment of any state tax. This provision would extend the same right to state elections. At the present time, the Fourteenth Amendment to the U. S. Constitution, as interpreted by the U. S. Supreme Court, prohibits any state from denying the right to vote in state elections because of non-payment of taxes. So the amendment proposed above is already federal law, binding in New Hampshire.

IF THE AMENDMENT IS ADOPTED, by enough Yes votes on Question No. 5, the state constitution will be brought up to date and made to agree with present federal law. The right to vote is an inappropriate lever for the collection of taxes. The state has other, ample weapons for the collection of taxes from those citizens able to pay; and those citizens unable to pay, should not, solely on that account, be denied the right to vote.

QUESTION NO. 6

6. Do you favor an addition to the Bill of Rights in the New Hampshire Constitution guaranteeing free speech together with liberty of the press? YES ☐ NO ☐

NOW — AT THE PRESENT TIME, the state constitution's Bill of Rights guarantees freedom of the press; but due to an historic error of omission made in 1783, the right of the individual citizen to freedom of speech was left out. The Fourteenth Amendment to the U. S. Constitution now protects the right of New Hampshire citizens to exercise freedom of speech. However, as a matter of our state's self-respect and good constitutional law, we should not be dependent on the federal government for the protection of this basic personal liberty.

IF THE AMENDMENT IS ADOPTED, by enough Yes votes on Question No. 6, freedom of speech will be added to the basic rights of every citizen, which are guaranteed by the New Hampshire Bill of Rights, and our state constitution, thus amended to rectify the historic omission referred to above, will be made more consonant with the 20th Century.

* * *

THE FOUR QUESTIONS PROPOSED BY THE LEGISLATURE AND THE AUTHORIZED EXPLANATION OF EACH AMENDMENT ARE AS FOLLOWS:

QUESTION NO. 7

7. Do you favor amending the Constitution so that the legislature may provide for assessment of any class of real estate at valuations based upon the current use thereof? YES ☐ NO ☐

NOW — AT THE PRESENT TIME, all real property must be taxed for its full and fair market value and all must be valued uniformly. This can result in land which is being used or held as farm or forest land but which could be used or sold, the same as nearby land, for business purposes or building lots being valued for tax purposes at the higher price which it would bring for such business purposes or as building lots.

IF THE AMENDMENT IS ADOPTED, laws may be passed, which cannot be done now, providing that real property shall be valued for tax purposes at its full and fair market value but only for the use that is now being made of it. Then land being used or held as a farm or timberland acreage would have to be taxed as such even though it could be used as and would be more valuable as business property or building lots.

QUESTION NO. 8

8. Do you favor requiring a new election in case the person receiving a plurality of votes in any senatorial district is found by the Senate not to be qualified to be seated, and requiring such election and all other elections to fill vacancies in the Senate arising by death, removal out of the state, or otherwise, to be called by the Governor and Council, instead of by the Governor alone as the Constitution now provides? YES ☐ NO ☐

NOW — AT THE PRESENT TIME, if the candidate for State Senator, apparently elected because he has received the highest number of votes, is found by the Senate not qualified to be seated, the Senate may declare elected and seat the candidate having the next

highest number of votes. No special election is necessary. Further, in cases where a special election is necessary to fill vacancies in the State Senate arising by death, removal out of state, or otherwise — the Governor alone may set the date of the required special election.

IF THE AMENDMENT IS ADOPTED, the Senate will still be the final judge of a candidate's qualifications to be seated, but it will not be able to declare elected and seat a candidate who did not receive the highest number of votes. Instead, if the candidate who received the highest number of votes is disqualified by the Senate, a special election will have to be called to fill the vacancy. Further in the case of the calling of such a special election or one to fill a vacancy due to death, removal out of state, or otherwise the Governor alone may not set the date of any such election but the approval of the Governor's Council will be required.

QUESTION NO. 9

9. Do you favor amending the Constitution effective for the 1971 session of the legislature to:

(a) Repeal the present salary of the legislators of \$200.00 for two years; and

YES ☐

(b) Give the legislature the power to set by statute for the succeeding session the daily pay of its members which must be voted by two-thirds of each house; and

NO ☐

(c) Allow legislators to be reimbursed for their reasonable expenses?

I. Salary of Legislators:

NOW — AT THE PRESENT TIME, each legislator receives a salary of \$200 for his entire two year term of office. This \$200 figure has remained unchanged since 1889. In 1961, the Supreme Court of New Hampshire wrote in regard to this salary:

"In this state compensation of legislators for a legislative term was fixed at two hundred dollars in another century. Under present conditions it is grossly inadequate. This antediluvian standard for the compensation of legislators has been almost universally criticized by both experts and laymen alike." (Monitor Publishing Co. v. Hill, 103 N.H. 397, 173 A2d 725, 726, (1961)).

IF THE AMENDMENT IS ADOPTED, the \$200 salary will be eliminated and in its place legislators will be paid, for each day they actually work, an amount set by law. This law would have to be signed by the Governor and voted for by no less than 2/3 of each house. Such a law could not set or change the salary of the legislature voting for it.

II. Expenses of Legislators:

NOW — AT THE PRESENT TIME, each legislator receives, for each day he is working on legislative business, a mileage allowance based on the distance from his home to Concord. This system has been universally condemned by the courts, legislators, the public, and the press.

IF THE AMENDMENT IS ADOPTED, each legislator will be reimbursed only for his actual out of pocket expenses which are necessary to carry out his legislative duties.

III. Time limits:

NOW — AT THE PRESENT TIME, legislators are paid mileage only for ninety legislative days or until July 1st, whichever comes first.

IF THE AMENDMENT IS ADOPTED, the July 1st limitation will be eliminated, but the ninety day limitation will be retained so that no legislator could be paid a daily salary or expenses for attendance at regular legislative sessions for more than ninety days during any two year term of office.

QUESTION NO. 10

10. Are you in favor of amending the Constitution to provide that the line of succession for filling the chair of the Governor in the event of its vacancy shall be extended to add after the President of the Senate and the Speaker of the House of Representatives, which is now provided, the Secretary of State and the State Treasurer in that order, and that the Secretary of State and the State Treasurer shall only be an Acting Governor until the Senate elects a President or the House of Representatives elects a Speaker?

YES ☐

NO ☐

NOW — AT THE PRESENT TIME, in the event of the death of the Governor or vacancy for other reasons in said office the President of the Senate or the Speaker of the House succeed to the Governor's seat, in that order.

IF THE AMENDMENT IS ADOPTED, it will provide that, in the event that at the same time vacancies occur in the three offices of Governor, President of the Senate, and Speaker of the House, then the Secretary of State or the State Treasurer shall become acting Governor, in that order. These two shall not succeed to the Governor's seat but shall only act as such until either or both the offices of Senate President and Speaker of the House are filled. We live in a highly complex and rapidly changing world. Continuity of government is essential to order in these times. If this amendment is approved, it will make more certain of such continuity of government through legally constituted leadership.

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IN CONCLUSION, when in your voting booth on November 5, 1968, please vote as you believe on these Constitutional Amendments, but **BE SURE TO VOTE!**

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IMPORTANT!

BE SURE TO READ

The Special Committee ordered by the 15th Constitutional Convention to prepare and distribute this pamphlet consists of:
Richard F. Upton, Concord, President of the Convention.

* * *

William L. Phinney, Goffstown, Chairman,
William S. Lord, Gilford, Vice Chairman,
Committee on Time and Mode of Amending Constitution.

* * *

Elmer Bourque, Manchester, Chairman,
Armand Capistran, Manchester, Vice Chairman
Committee on Form and Style of Amending Constitution.

* * *

The text explaining questions seven through ten was prepared by the Office of Legislative Services and approved by the President of the Senate and the Speaker of the House.
